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8 UNITED STATES
9 ENVIRONMENTAL PROTECTION AGENCY
10 REGION 9

11 In The Matter Of:)

12 THE ATCHISON, TOPEKA AND)
13 SANTA FE RAILWAY COMPANY,)

ORDER

14 Respondent)

86-05

15 PROCEEDING UNDER SECTION 106(a))
16 OF THE COMPREHENSIVE ENVIRONMENTAL)
RESPONSE, COMPENSATION AND LIABILITY)
17 ACT OF 1980 (42 USC 9606(a)))

18 ORDER

19 The following Order is issued on this date to the Atchison,
20 Topeka and Santa Fe Railway Company ("Respondent"), pursuant to
21 §106(a) of the Comprehensive Environmental Response, Compensation
22 and Liability Act of 1980 (CERCLA), 42 USC 9606(a), by authority
23 delegated to the undersigned by the Administrator of the United
24 States Environmental Protection Agency (EPA). Notice of the
25 issuance of this Order has heretofore been given to the State
26 of Arizona.

27 The Director, Toxics and Waste Management Division, EPA
28

1 Region IX has determined that there may be an imminent and subs_
2 tantial endangerment to the public health and welfare and the
3 environment caused by a release of a hazardous substance as
4 defined in §101(14) of CERCLA, 42 USC 9601 (14), resulting from
5 the train derailment near Parks, Arizona, on or about June 20, 1986.

6 This Order directs Santa Fe Railroad to undertake actions to
7 protect the public and the environment from this endangerment.
8

9 FINDINGS OF FACT

- 10 1. On or about June 20, 1986, a freight train operated by the
11 Respondent derailed near the town of Parks, Arizona. As a
12 result of the accident, two tank cars containing styrene
13 ruptured and spilled an estimated 30,000 gallons of material
14 onto the ground along the right-of-way. The spill covered
15 an area approximately 100 feet in length and 50 feet in width.
16 2. Due to extremely permeable native soil, the spilled styrene
17 has seeped through surface soils and threatens to
18 contaminate ground water. Drinking water wells are located
19 within one mile of the spill site.
20 3. The populations at risk are railroad track workers at the
21 spill site who may have direct contact or inhale the material,
22 railroad personnel passing by, nearby residents who may have
23 direct contact with the material, inhale the material or may
24 ingest contaminated drinking water, and travelers on Inter-
25 state Highway 40 which runs adjacent to the spill site.
26 4. Styrene can cause irritation of the eyes, central nervous
27 system, and respiratory system. Skin contact may lead to
28

1 the development of dermatitis. High doses may cause anesthesia
2 and systemic effects. Ingestion of styrene has been shown to
3 cause histopathologic effects on the liver as well as hema-
4 tologic effects.

5
6 CONCLUSIONS OF LAW

- 7 1. The tank car and surrounding spill site is a facility as
8 defined in §101(9) of CERCLA.
9 2. Styrene is a hazardous substance as defined in §101(14) of
10 CERCLA and is subject to the terms and provisions of that
11 Act.

12 DETERMINATIONS

13 Based upon the foregoing Findings of Fact and Conclusions of
14 Law, the Director, Toxics and Waste Management Division, EPA Region
15 9 has made the following determinations:
16

- 17 1. The release of styrene by the Respondent may present an
18 imminent and substantial endangerment to public health and
19 welfare and the environment.
20 2. In order to prevent or mitigate immediate and significant
21 risk of harm to human life, health or to the environment, it
22 is necessary that immediate removal action be taken to contain
23 and terminate the release of hazardous substances at the
24 spill site.
25 3. The response measures ordered herein are consistent with the
26 National Contingency Plan, 40 C.F.R. Part 300.
27 4. Respondent is responsible for conducting the actions ordered
28 herein, which are necessary to protect human health and the

1 environment.

2 ORDER

3 Based upon the foregoing Findings of Fact, Conclusions of
4 Law and Determinations, Respondent is hereby ordered and directed
5 to take the following measures:

6 Site Mitigation Measures

- 7 1. Provide 24 hour site security to prevent public access and/
8 or contact with the site. Site security may include either
9 fencing and posting of signs or provision of security guard.
10 Site security shall be implemented immediately and shall
11 continue until EPA determines that the endangerment to public
12 health and the environment no longer exists. A report docu-
13 menting the status of site security shall be submitted to
14 EPA and the Arizona Department of Health Services ("ADHS")
15 within two days of the effective date of this Order.
- 16 2. Provide site stabilization measures to limit percolation
17 of rainwater through contaminated soils. Site stabilization
18 should include tarping of contaminated soils. Site stabili-
19 zation shall be implemented immediately and shall continue
20 until EPA determines that the endangerment to public health
21 and the environment no longer exists. A report documenting
22 the status of site stabilization shall be submitted to EPA
23 and ADHS within two days of the effective date of this Order.
- 24 3. Conduct a full site assessment through a sampling and
25 analysis program. In particular, Respondent shall assess
26 the degree of contamination of subsurface soil at discrete
27 depths. Respondent shall also determine the proximity of
28 ground water to the contamination. The site assessment

shall be completed within seven days of the effective date of this Order.

4. Develop a plan for site hazard mitigation. The plan shall fully document the site assessment activities described in task #3. This documentation must include a site map with locations of all investigative activities noted. Geologic logs, analytic results, and all other site characterization information must be included in the documentation of the site assessment activities. Based upon the site assessment data, the plan shall evaluate various removal and treatment options for contaminated subsurface soil and ground water. The discussion of each option shall include schedules for implementation and completion. The site hazard mitigation plan shall include a general provision for post-cleanup sampling to verify the adequacy of the cleanup. The site hazard mitigation plan shall be submitted to EPA for review, modification and approval within seven days of the effective date of this Order. This plan shall also be submitted for review to ADHS.

5. Implementation of the site hazard mitigation plan shall begin immediately upon receipt of EPA approval of the plan and shall be completed in accordance with the approved plan schedule.

6. All samples collected pursuant to task #3 of this Order shall be analyzed for styrene. Analytical and quality control protocols shall include:
- a. Adequate sample identification;
 - b. Decontamination of sampling equipment;

1 c. Appropriate sample preservation;

2 d. Chain-of-custody;

3 e. Use of standard EPA analytical methods, or
4 EPA-approved alternative;

5 f. Identification of person(s) conducting the sampling.

6 Upon request by EPA or ADHS, duplicate samples will be taken
7 in the manner described above and provided to EPA or ADHS.

8 Contingency Plan

9 7. Develop a contingency plan for providing an alternate water
10 source for potentially contaminated wells in the vicinity of
11 the spill site. The alternate water supply plan shall
12 include:

13 a. Identification of feasible alternate water supply
14 measures.

15 b. A program for monitoring existing wells and for plume
16 detection prior to impact on these wells.

17 c. A schedule for implementation of an alternate supply
18 program should styrene be detected by the program outlined
19 in (b) above.

20 The alternate water supply plan shall be submitted to EPA for
21 review, modification and approval within seven days of the
22 effective date of this Order. This plan shall also be sub-
23 mitted for review to ADHS. If EPA deems necessary, the
24 alternate water supply plan shall be implemented immediately.

25 Reporting Requirements

26 8. In addition to the above, Respondent shall provide EPA and
27 ADHS with weekly progress reports for the duration of the
28 cleanup program.

1 Compliance with Applicable Laws

2 9. In carrying out the terms of this Order, Respondent shall
3 comply with all federal, state and local laws and regulations.

4 Access

5 10. Employees and authorized representatives of EPA and the
6 State of Arizona shall be granted access to the spill site
7 for the purpose of verifying compliance with the provisions
8 of this Order.

9 On-Scene Coordinator

10 11. The EPA On-Scene Coordinator (OSC) shall have authority
11 vested in the "On-Scene Coordinator" by 40 C.F.R. Part
12 300, et seq., published in 42 Fed. Reg. 31180 (July 16,
13 1982). The OSC shall have the authority to designate a
14 representative who shall have access to the site at all
15 times for the purpose of determining the adequacy of the
16 Respondent's activities.

17 Government Not Liable

18 12. The United States Government shall not be liable for any
19 injuries or damages to persons or property resulting from
20 the acts or omissions of the Respondent, its employees,
21 agents or contractors in carrying out activities pursuant
22 to this Order, nor shall the Federal Government be held as
23 a party to any contract entered into by the Respondent, or
24 its agents in carrying out activities pursuant to this
25 Order.

26 Penalties for Noncompliance

27 13. A willful violation or failure or refusal to comply with
28 this Order, or any portion thereof, may subject you under

1 §106(b) of CERCLA, 42 U.S.C. 9606(b), to a civil penalty of
2 not more than \$5000 for each day in which such violation
3 occurs or such failure to comply continues. Failure to
4 comply with this Order, or any portion thereof, may subject
5 you under §107(c)(3) of CERCLA, 42 U.S.C. 9607(c)(3), to
6 liability for punitive damages in an amount up to three
7 times the amount of any costs incurred by the Government
8 as a result of your failure to take proper action.

9 14. EPA may take over the removal action at any time if EPA
10 determines that Respondent is not taking appropriate action
11 to mitigate the site hazard. In the event EPA assumes
12 responsibility for the removal action, Respondent will be
13 liable for all costs incurred by EPA to mitigate the site
14 hazard. EPA may order additional site characterization
15 and/or remedial actions deemed necessary by EPA to protect
16 the public health and welfare or the environment.

17 Opportunity to Confer

18 15. You may request a conference with the Director, Toxics and
19 Waste Management Division, EPA Region 9 or his staff to
20 discuss the provisions of this Order. At any conference
21 held pursuant to your request, you may appear in person or
22 by counsel or other representatives for the purpose of
23 presenting any objections, defenses or contentions which
24 you may have regarding this Order. If you desire such a
25 conference, you must make such a request orally within 24
26 hours of receipt of this Order, to be immediately confirmed
27 in a written request. Please make any such request to:

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1 Jon K. Wastor
2 Assistant Regional Counsel
3 Environmental Protection Agency
4 215 Fremont Street
5 San Francisco, CA 94105
6 (415) 974-8042

7 Parties Bound

8 16. This Order shall apply to and be binding upon the Respondent,
9 its officers, directors, agents, employees, contractors,
10 successors and assigns.

11 Notice of Intent to Comply

12 17. Immediately upon receipt of this Order, Respondent shall
13 orally inform EPA of its intent to comply with the terms of
14 this Order. This shall be confirmed in writing within two
15 (2) days of receipt of this Order.

16 Endangerment during Implementation

17 18. In the event that the Regional Administrator of EPA, Region
18 9 determines that any activities (whether pursued in
19 implementation of or in noncompliance with this Order) or
20 circumstances may be creating an imminent and substantial
21 endangerment to the health and welfare of the people on
22 the site or in the surrounding area or to the environment,
23 the Regional Administrator of EPA, Region 9, may order
24 Respondents to halt the implementation of this Order for
25 such period of time as is needed to abate the endangerment.

26 Effective Date

27 19. Notwithstanding any conferences requested pursuant to the
28 provisions of this Order, this Order is effective upon receipt,
and all times for performance shall be calculated from that
date.

1 It is so ordered on this 1st day of July, 1986.

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3 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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5 By: Harry Seraydarian

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7 HARRY SERAYDARIAN
8 DIRECTOR, TOXICS & WASTE MANAGEMENT DIVISION
9 EPA, REGION IX

10 Contact Persons:

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